Human Rights/Centre for Human Rights. The present report contains her findings on completion of the mission. It is also based on a mission which she conducted from 2 to 8 May 1996 and on investigations carried out by the field staff, including in-depth examination of the situation in locations such as Doboj/Teslic, Bugojno, Banja Luka and Bihac.

2. The timely conducting of elections is profoundly a matter of human rights. First, it will permit the democratic expression of the will of the people following a period of war-time emergency rule. Second, it will afford the opportunity for the people to endorse the fundamental constitutional and other changes introduced in recent months. Third, it will open the way for the establishment of a country-wide democratic political process and the putting in place of institutions essential for the promotion and protection of human rights.

3. The achievement of any of the human rights-related outcomes of the elections will largely turn on the extent to which the elections themselves are conducted in conformity with the relevant provisions of international human rights law. Without free and fair elections there can be no expression of the true will of the people and the institutions and constitutional arrangements that are being introduced will be compromised from the start. Improper elections would also contribute to a situation of instability conducive both to an unwillingness to redress past human rights abuses and to an escalation in such incidents in the future.

International human rights standards 2/

4. Bosnia and Herzegovina is a State party to the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. By virtue of provisions of the General Framework for Peace in Bosnia and Herzegovina (the Framework Agreement), it and the other parties to the Framework Agreement are bound to observe these instruments, as well as the European Convention for the Protection of Human Rights and Fundamental Freedoms. The provisions of these instruments pertaining to elections are:

International Covenant on Civil and Political Rights, articles 25 and 2, paragraph 1;

International Convention on the Elimination of All Forms of Racial Discrimination, article 5, paragraph (c);

The First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 3.

2/ The relevant provisions of the international instruments are reproduced in the annex to the present report.

5. The conducting of free and fair elections also requires respect for a range of human rights of members of political parties, campaigners and voters, such as the freedoms of association, assembly, expression and opinion and the right to bodily integrity. These rights are contained in the various human rights instruments to which Bosnia and Herzegovina is a party and which also bind parties to the Framework Agreement. Each of these instruments also imposes an obligation on State parties to afford redress for human rights violations. The Framework Agreement also gives binding status to paragraphs 7 and 8 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE.

Supervision of the preparation and the conduct of the elections by the Organization for Security and Cooperation in Europe

6. The Framework Agreement charges the Organization for Security and Cooperation in Europe (OSCE) with supervision of the preparation and the conduct of the elections.

7. A Provisional Election Commission was established in January 1996 and has adopted rules and regulations for the elections, in conformity with the Copenhagen Declaration. In mid-June 1996 the Election Appeals Sub-Commission was appointed with a mandate to enforce compliance with these rules and to adjudicate complaints with regard to the electoral process. As well as having power to levy fines, the Sub-Commission may disqualify candidates or parties or apply other penalties as appropriate. The task of monitoring compliance with the rules will fall primarily to some 1,200 OSCE monitors, in cooperation with local police and the International Police Task Force. A Media Experts Commission has been assigned responsibility for monitoring and adjudicating in compliance with the rules concerning media issues and may punish breaches with the levying of fines, removal of press accreditation or "other appropriate action".

8. By mid-June, most of the 140 planned local election commissions had been set up with primary responsibility for the local technical facilitation of the electoral process and registration of certain categories of voters. Municipalities which had not yet established local election commissions had until 27 June to do so if they were not to be disqualified from participation in the elections. Within the Federation, in certain areas where Bosniak-Croat relations are strained, the local election commissions have experienced serious difficulties. For instance, in Gorni Vakuf, Croat residents have appointed their own commission. In Fojnica, where Bosniaks constitute the majority in the commission, Croat members have resigned.

9. For those people who intend to vote in person in the municipalities in which they were registered to vote in 1991, there will be no new voter registration process. For all other intending voters, such as refugees and displaced persons who wish to vote in absentia, a process of registration is under way, with a planned completion date in mid-July 1996. It is a matter of concern that rigid application of this completion date may serve to disenfranchise those who are blocked from travelling to locations at which they intend to vote or who may be displaced at a time after the cut-off date for completion of the process of registration.

10. The registration of political parties and independent candidates ended on 14 June 1996. Forty-nine parties and 33 independent candidates were registered.

Freedom of association and assembly, and the electoral process

11. In both of the entities comprising Bosnia and Herzegovina, members of parties other than the three parties in power or with authority (the Serbian Democratic Party (SDS), the Party of Democratic Action (SDA) and the Croatian Democratic Union (HDZ)) are obstructed in the exercise of the rights of freedom of association and assembly and other related rights. In Republika Srpska, there are well-attested reports of violence and harassment directed against those attempting to organize politically outside the SDS. Thus, for instance, in the Doboj region, members of the Socialist Party have lost their jobs or suffered attacks on their property. There and elsewhere in the Republika Srpska entity, political meetings have been disrupted and candidates attacked. It is frequently reported that police witness the attacks and fail to intervene or subsequently fail to conduct investigations vigorously. In one attack in Blatinica on 24 March 1996, a member of the Socialist Party was beaten unconscious and international observers report possible involvement by police from Teslic.

12. Reliable reports indicate that there is a similar climate of fear and lack of proper policing in areas of the Federation in which the HDZ is the dominant party. In those regions, it is reported that HDZ, supported by local police forces, has ensured that only political parties which broadly support its political positions are allowed to function. There have been instances in West Mostar of the police refusing to allow campaigners for the Social Democratic Party to cross from the eastern part of the city. A former member of that party in West Mostar reported to a human rights organization that he would not participate in elections for fear of his life.

13. Members of the SDA have been implicated in acts of violence and other abuses directed against members of, or potential voters for, other parties. In Cazin on 15 June 1996, a large group of people displaying SDA banners and posters attacked a group of campaigners for the Party of Bosnia and Herzegovina which included Mr. H. Siladzic, a former Prime Minister of Bosnia and Herzegovina. In the course of the attack, Mr. Siladzic was beaten with an iron bar and sustained head injuries. A television journalist present at the meetings had equipment destroyed by members of the crowd. International observers of the incident reported that local police did nothing to protect the victims of the attack. Local police subsequently undertook an investigation of the attack on Mr. Silajdic and have stated that a number of suspects have been arrested. The President of the Una-Sana canton, Mr. Veladzic, has also indicated that the failure of the police to provide adequate protection will be dealt with through appropriate disciplinary procedures.

14. In nearby Velika Kladus, there are persistent reports of attacks on supporters of Mr. Fikret Abdic and his Democratic People's Union by, among others, persons wearing military or police uniforms, and of arbitrary detention by the local police. It is difficult to assess the scale of the attacks, not least because many victims fear retaliation for lodging

complaints with either the local police or the International Police Task Force. However, one international organization has reported that over half of the Abdic supporters who have returned from the Kuplensko camp in Croatia have been subjected to some form of abuse. Members of the government of Una-Sana canton, as well as a number of opposition politicians, have indicated to international observers that they will not countenance any role for Mr. Abdic or his party in the forthcoming elections.

15. It is reported from Tesanj that members of the Union of Bosnian Social Democrats have been subjected to harassment by SDA supporters and that one of its leading members was attacked by masked men on 3 June 1996. From this and other areas there are reports of people being dismissed from local government controlled posts because they have joined parties other than the SDA. In Kalesija, near Tuzla, 159 people were called into police stations and interviewed after they had been accused of heckling the local mayor at a public meeting.

16. There are persistent reports from all parts of the country of parties other than the three ruling parties being unable to gain access to venues for meetings and assemblies or to display posters and other promotional materials unhindered. The problem is pervasive in Republika Srpska and Croat controlled regions and gives cause for concern in certain locations in Bosniak controlled areas of the Federation, such as Bugojno, Cazin and Jablanica.

Freedom of movement and the electoral process

17. Well-founded fears of intimidation or attack inhibit significant movement across the inter-entity boundary line and into areas where the traveller does not belong to the majority population group. This is particularly the case with regard to movement into Republika Srpska. The fear discourages temporary movement and completely obstructs the process of voluntary return of displaced persons. Movement is further restricted by the imposition of obstructive technical requirements for the use of Federation-registered buses within Republika Srpska. The de facto lack of freedom of movement constitutes a significant obstacle to political organization and campaigning on a country-wide or inter-ethnic basis. Also, unless remedied before the elections, it will fundamentally disrupt the voting process and prevent many elected politicians from visiting their constituencies.

18. Police in both entities persist in setting up illegal clandestine mobile checkpoints within the Zone of Separation which encompasses the Inter-Entity Boundary Line (IEBL). At these and other, legal, checkpoints, they frequently stop vehicles bearing the licence plates of the other entity, confiscate identity documents, levy arbitrary fines, proffer abuse and occasionally arbitrarily detain the persons travelling in the vehicles. In one incident at the end of May 1996, a police officer in a predominantly Croat area near Zepce fired on a vehicle bearing a Bosnian licence plate, killing the driver. On 4 June 1996, a Serb milkman from Kukavica was allegedly arrested and attacked by police while delivering milk in the Grbâvica suburb of Sarajevo.

19. Attempts to organize IEBL crossing for groups wishing to visit temporarily locations from which they had been displaced are frequently disrupted by more or less well organized groups of abusive and violent

civilians. Local police are reported either to fail to control these crowds or to encourage the violence. Thus, for instance, attempted visits to the Doboj area during June 1996 were obstructed by violent attacks on buses. In one such attack on 2 June, almost all the passengers on a bus sustained injuries before it retreated to the Federation area. In another incident in the same area, the Teslic police chief left the scene just before an angry crowd converged on a bus. While such attacks on groups are primarily concentrated in Republika Srpska, there are similar reports from elsewhere. For instance, it was reported that on 28 May 1996 four bus-loads of Bosniaks from Mostar were prevented by Croat police from entering the town of Stolac.

20. Additional factors inhibiting freedom of movement, of particular concern to many of the candidates for election, are the general unavailability of information as to the identity of those being sought for war crimes in each of the entities and uncertainty as to the manner of application and the extent of amnesty.

Freedom of expression and the electoral process

21. In Republika Srpska, it is reported that most radio stations, as well as the television service, block access for politicians who do not belong to the SDS. International monitors report frequent incidents of incitement to hatred and abusive statements directed against political opponents. Typical of such incidents were broadcasts during May 1996 on Radio Doboj and Radio Teslic in which prominent SDS members made abusive comments about members of the Socialist Party. There is no indication of police investigation of such instances of hate speech with a view to prosecution under the criminal code. Journalists working for the one independent radio station, Radio Big, have been harassed by local officials and the station itself was forbidden to broadcast on 20 May 1996 for the stated reason that it had not paid its electricity bill. Journalists with the only two local print media which fail to reflect uncritically the SDS position, Novi Prelom and Nesaviane Novines, also report harassment and intimidation by the authorities.

22. There is tight censorship of the media in Croat controlled areas and Radio Herzog-Bosna, Radio Mostar and Television Mostar are under the effective control of the HDZ party. The party has indicated that it may establish and control a further television station. There is no newspaper published in areas under the control of the HDZ.

23. The print media experience reasonable freedom in Bosniak majority areas of the Federation; however, distribution is generally limited to large population centres. Although the State television station is effectively controlled by the SDA, it appears to offer opportunity for the expression of opposition views. Independent television stations do not have capacity to broadcast throughout the country. Numerous reports have been received of local radio and television stations, which are usually owned by the local authorities, unduly restricting broadcasting access by opposition parties. The director of one local radio station reported to international observers that his personal safety and that of his staff would be jeopardized if the station's broadcasting policy did not exhibit bias towards the SDA.

24. The ability to conduct inter-entity campaigning or to have access to alternative views is hampered by the complete lack of inter-entity distribution of newspapers and magazines. The situation is no better with regard to the distribution of journals in Croat dominated areas. Factors contributing to this situation include the range of problems obstructing freedom of movement, a possible lack of consumer demand and the absence of a distribution infrastructure.

25. Country-wide political activity is further impeded by the complete lack of inter-entity telephone contact.

26. OSCE has done much to counter the effects on the election campaign of restrictions on freedom of expression. One notable project is the development of a mobile Free Elections Radio Network. The Office of the High Representative has also been instrumental in developing a project for the establishment of an Open Broadcast Network Television System. Once operational, these systems will be capable of broadcasting balanced party political information to some 75 per cent of the population. The Media Experts Commission (see para. 6 above) is in a position to exercise an important role in monitoring and adjudicating on election-related media activity.

Population engineering and the electoral process

27. The odious practices commonly referred to as "ethnic cleansing", as well as the effects of war, resulted in massive displacements of persons throughout Bosnia and Herzegovina. There has as yet been virtually no return of refugees and displaced persons to areas where their communities are now a minority. Numbers of returnees to areas where their communities are in the majority are increasing and will be greatly augmented in coming months with the initiation of UNHCR pilot projects for return to 19 locations.

28. Return to "minority areas" is being blocked by the authorities in both entities of the country. Reference has already been made to the myriad obstructions to the exercise of freedom of movement. To these may be added a pervasive climate of fear and insecurity fuelled by ongoing attacks on the person and a frequent lack of investigation by the police. Return is also hindered by the application of laws on property and residential rights, inadequate amnesty laws and the existence of undisclosed lists of those whom the various authorities will pursue for war crimes.

29. Displacement of minority populations continues from areas of Republika Srpska such as Teslic, Banja Luka and Vrbanja. Members of minorities, mainly Bosniaks but also Croats and Roma, are subject to concerted patterns of intimidation and administrative discrimination. As a result, in the period since April 1996, some hundreds of members of minority populations have either left or indicated an urgent desire to leave Republika Srpska. There have been incidents of physical attack, including rape, destruction of property, death threats and the hurling of racist abuse. In most incidents, the local police fail to intervene or conduct proper investigations. In Vrbanje, near Banja Luka, during June 1996, half the remaining Bosniak community of some 100 people have been evicted from their homes, either by resident Serb displaced persons or mobs of strangers. The evictions have been accompanied

by violence. In one incident, an elderly man suffered severe injuries. The police have failed to take adequate action to protect the Bosniaks. There are recent reports from Teslic of the confiscation without compensation by the local Serb leaders of the farmland of Bosniaks in the Teslic region. Here also, the local police have failed to intervene and have been dismissive of complaints.

30. There have been persistent reports in recent months of wide-scale harassment of the remaining Serbs in the Sarajevo suburbs, with cases of beatings, death threats, eviction, robbery and arson. In some instances, local police and municipal officials either failed to intervene or may have actively participated. As a result of this harassment, many Serbs have felt constrained to abandon their homes and leave Sarajevo.

31. The lack of a significant programme of return prior to the elections, as well as the ongoing displacement, may enhance the electoral chances of parties representing the new or enhanced majorities in areas which have been "ethnically cleansed". This attempted gaining of electoral advantage is at least an element in the motivation of authorities which are impeding return or actively colluding in new displacement.

32. The Election Rules and Regulations attempt to overcome the problems posed by the lack of return of displaced persons and refugees through the establishment of a system of absentee voting for those who wish to exercise their franchise in municipalities where they were resident in 1991 but who are unable or unwilling to go to these locations. Application of these rules cannot however address the fact that large numbers of candidates may well be elected in municipalities to which they do not have access.

Conclusions

33. There are indications that the central Government in the Federation is not opposed to the holding of free and fair elections. Nevertheless, conditions in Bosnia and Herzegovina are not conducive at the present time to the democratic operation of the electoral process. In both entities there are violations of the rights of freedom of association and assembly, and freedom of movement for campaigners and candidates, restrictions on freedom of expression and abuses of the media, and violent attacks on politicians and their supporters. Governments, local authorities and police forces continue to fail to take the necessary action to counter these practices. The failure to permit significant voluntary return to areas where returnees are now part of minority populations is another impediment to the electoral process, as are disturbing incidents of ongoing displacement.

34. The problems are most acute in Republika Srpska. In this entity the culpability of the authorities is further compounded by the ongoing political leadership exercised by indicted war criminals.

35. Within the Federation, the greatest cause for concern is presented by an entirely anti-democratic regime in areas controlled by Croatia. In Bosniak-majority locations, attention is drawn to regions such as the Bihac area and to a range of discriminatory practices founded in almost all population centres.

36. The Organization for Security and Cooperation in Europe is to be applauded for its achievements in putting in place a range of election-related mechanisms and for its ongoing efforts to ensure that the elections will be adequately monitored.

Recommendations

37. The authorities of Republika Srpska must take immediate action to halt the specifically election-related and the many other human rights abuses in the entity. It must act to impose police and local authority discipline and afford real protection to those at risk. As an urgent step, the property of the displaced must be secured and conditions be created to facilitate and encourage return. An integral part of this programme must be the political isolation and arrest of indicted war criminals.

38. The authorities in the Federation should ensure the eradication of all discriminatory practices by public officials at whatever level, as well as by the police. In Croat controlled areas, this will require a fundamental reassessment of policy. In other areas of the Federation, much needs to be done by all levels of Government to encourage and ensure an open and fair political climate which permits unhindered campaigning by opposition parties.

39. The authorities in both entities must take immediate action to achieve de facto freedom of movement country-wide and to create conditions for inter-entity campaigning.

40. Those mechanisms which are intended to investigate and penalize breaches of the election rules must operate in an independent and swift manner. It is also to be hoped that they pro-actively interpret their mandates in order to respond to general election-related problems, as well as specific complaints of violations.

41. The Organization for Security and Cooperation in Europe should ensure that voting regulations will not be applied in a manner which precludes from voting those who are obstructed by the authorities from going to their place of voting, including any persons who may be displaced in the period prior to the election.

42. The High Representative is encouraged to monitor closely compliance by the parties with the Framework Agreement and to use his authority with a view to ensuring compliance of the parties with election-related commitments, including the provisions of the Copenhagen Declaration.

43. Even if the above recommendations are more or less implemented, it is clear that elections in September will not meet all the relevant requirements of international law and the Copenhagen Declaration. Accordingly, the Special Rapporteur supports the recommendation of the Chairman-in-Office of the Organization for Security and Cooperation in Europe, Mr. F. Cotti, that the mandates of all the authorities that will be elected expire in two years' time and that further elections take place then. This proposal would allow for further consolidation of the democratic process and the opportunity for a free and fair expression of the will of the people within a reasonable period of time.

Annex

PROVISIONS OF INTERNATIONAL INSTRUMENTS PERTAINING TO ELECTIONS

A. International Covenant on Civil and Political Rights

Article 25:

"Every citizen shall have the right and opportunity, without any of the distinction mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country."

Article 2, paragraph 1:

"Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

B. International Convention on the Elimination of All Forms of Racial Discrimination

Article 5:

"In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

...

(c) Political Rights, in particular, the right to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service."

C. The First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms

Article 3:

"The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

D. Document of the Copenhagen Meeting of the Conference on the Human Dimension

Paragraph 7:

"To ensure that the will of the people serves as the basis of the authority of Government, the participating States will:

Hold free elections at reasonable intervals, as established by law;

Permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote; guarantee universal and equal suffrage to adult citizens;

Ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public;

Respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;

Respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;

Ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;

Provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;

Ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures."